THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.19966 of 2006

DATED 11.10.2006

Between:
Chappidi Satyanarayana. .. PETITIONER

versus

The Amalapuram Municipality,
Represented by its Commissioner,
Amalapuram, East Godavari
District and another. .. RESPONDENTS

WRIT PETITION NO.19966 of 2006

ORDER:

The matter is coming up for admission today. Sri Nageswara Reddy had taken notice on behalf of the respondents on 25.9.2006 and requested time to get instructions. Subsequent thereto, the matter had undergone a couple of adjournments.

2. Heard Sri K.L.N.Swamy, learned counsel for the writ petitioner and Sri Nageswara Reddy, learned counsel appearing for the respondents.

3. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in disconnecting the drinking water tap connection vide 1st respondent proceedings BPL.No.472/4281/06-E3, dated 26.8.2006 as illegal, arbitrary, against the principles of natural justice and violative of Article 21 and Directive Principles of State Policy of Constitution of India and consequently set aside the orders of the 1st respondent passed in BPL.No.472/4281/06-E3, dated 26.8.2006 and direct the respondents to reconnect the drinking water tap connection to the petitioner's house bearing No.2-5-69/1, Sithapathiraopeta, Amalapuram, East Godavari District and pass such other suitable orders.

4. It is stated that the petitioner is a poor person having four children and belongs to BC community and he is in peaceful possession and enjoyment of house bearing No.2-5-69/1, Sithapathiraopeta, Amalapuram, East Godavari District, which is situated around 2 cents of land in R.S.No.159/2. It is also stated that he has been in continuous possession and enjoyment of the above said house for more than 35 years and has been paying the taxes to the authorities. It is further stated that it is the only residential house to live in and he has no other immovable property of his own. It is also further stated that there is a scheme to provide fresh water supply by the 1st respondent-Municipality and the petitioner had applied for the same. As per G.O.Ms.No.808, dated 3.8.2004, issued by the Government, a drinking water connection had been sanctioned to the petitioner, who is a holder of white ration card, under the scheme of poor persons who are below the poverty line. After considering the relevant factors, the 1st respondent vide its orders Roc.No.260/04/E3, dated 2.2.2006, sanctioned a drinking water connection for Rs.1,200/- under the persons living below the poverty line and directed the petitioner to pay the said amount in 12 instalments and collected Rs.145/- towards the first instalment and a water connection was given to him in the month of February, 2006. It is also stated that all of a sudden on 29.8.2006, his water connection had been disconnected and after disconnection, when the petitioner questioned the illegal action of the 2nd respondent, he served a copy of the order purported to have been passed by the 1st respondent in BPL.No.472/4281/06-E3, dated 26.8.2006. It is stated that as per the orders, it reads that a summons dated 1.7.2006 was received from Senior Civil Judge, Amalapuram and as such his drinking water connection had been disconnected. It is also stated that the petitioner obtained copies of the proceedings from Junior Civil Judge, Amalapuram and the petitioner

also received a summons from the Junior Civil Judge, Amalapuram in OS.No.316 of 2006 and thus he came to know that a suit OS.No.316 of 2006 had been filed by the Deity Sri Subbalamma Nookalamma Rajyalaxmi Ammavaru, Amalapuram, represented by its Manager alleging that since the land where the petitioner's residential house situated belongs to Deity, it had filed the suit for mandatory injunction directing the writ petitioner and the Municipality for removal of fresh water tap connection given to the residential house of the petitioner. It is also stated that no interim order in the mandatory form as such had been made in the said civil suit on any interlocutory application.

5. Hence, in the facts and circumstances of the case, the respondents are not justified in effecting disconnection especially without following any procedure. Even otherwise if a third party-Deity filed a suit already, OS.No.316 of 2006 referred to supra, it is needless to say that unless and until certain positive orders are made in this regard by a competent civil Court, the respondents are not justified in resorting to the impugned action. In view of the facts and circumstances, the respondents are hereby directed to restore the drinking water tap connection to the petitioner's house bearing No.2-5-69/1, Sithapathiraopeta, Amalapuram, East Godavari District forthwith, and it is needless to say that this direction would be subject to the result of further orders, if any, to be passed by the civil Court in the pending suit referred to supra.

6. With the direction indicated above, the Writ Petition is disposed of. There shall be no order as to costs.

11.10.2006

SSR

Issue order copy in two days.

(BO)